

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

|   |   |                          |
|---|---|--------------------------|
| Thomas Mervyn, Individually and on behalf of<br>all others similarly situated,                                  | ) |                          |
|   | ) | Case No. 11 cv 6594      |
| Plaintiff,  | ) |                          |
|   | ) | Judge: Gary E. Feinerman |
| v.  | ) |                          |
|   | ) |                          |
| Nelson Westerberg, Inc., Newesco, Inc., Nelson<br>Westerberg International, Inc., and Atlas Van<br>Lines, Inc., | ) |                          |
|   | ) |                          |
| Defendants.   | ) |                          |

**DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT**

NOW COME the Defendants NEWESCO, INC. ("Newesco") and ATLAS VAN LINES, INC. ("Atlas") by their counsel and supplement their pending Motion for Summary Judgment as follows:

1. Defendants filed their Motion for Summary Judgment on June 4, 2013 (Docket No. 135).
2. The deposition of plaintiff Thomas Mervyn was taken on November 20, 2013, and is attached as Exhibit H to Defendants' Supplemental Local Rule 56.1 Statement.
3. In his deposition, Mr. Mervyn made admissions that support an additional ground for summary judgment (no actual damages because of lack of detrimental reliance), and which further supported grounds already asserted in Defendants' original Motion for Summary Judgment. These are more fully explained in the accompanying Memorandum.

Wherefore, for the reasons set forth above and in the Defendants' original Memorandum Motion for Summary Judgment, and accompanying Memoranda in Support, Defendants request that this Court enter judgment in their favor. ORAL ARGUMENT REQUESTED.

Respectfully submitted,

HINSHAW & CULBERTSON LLP

/s/ David H. Levitt

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**CERTIFICATE OF SERVICE**

I hereby certify that, on January 3, 2014, I electronically filed the above and foregoing **DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT** through the Court's ECM/CF system which will cause electronic notification of this filing and copies of all documents referenced herein to be sent to all counsel of record.

s/ David H. Levitt  
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One of Defendants' Attorneys